

November 25, 1997

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
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Seattle, Washington 98164
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REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL

SUBJECT: King County Department of Transportation File No. **V-2172**
Proposed Ordinance No. 96-919

KENYON LUCE,
Petition for Road Vacation

Road: Portion of South 371st Street, lying between
37th Avenue South and Military Road South

Petitioner(s): Kenyon Luce, 5308 – 12th Street East, Tacoma, WA 98424

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Deny vacation petition
Department's Final:	Grant vacation petition
Examiner:	Grant vacation petition

PRELIMINARY MATTERS:

Petition Filed: April 12, 1994

EXAMINER PROCEEDINGS:

Pre-Hearing Conference:	December 2, 1996
Hearing Opened:	January 8, 1997; continued for administrative purposes
Hearing Reopened:	October 19, 1997; continued for administrative purposes
Hearing closed:	November 20, 1997

ISSUES SUMMARY:

- Public access

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location:	Portion of South 371 st Street, between 37 th Avenue South and Military Road South
Right-of-way classification:	C
Area:	15,600 square feet
Compensation:	\$28,494

2. The Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner, as received by the Hearing Examiner on September 19, 1997 (exhibit no. 18), and the statement of facts contained in substitute proposed Ordinance No. 96-919, September 15, 1997 draft (exhibit no. 26). The said report and proposed ordinance will be attached to the copies of this report and recommendation submitted to the King County Council.
3. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this Report and Recommendation.
4. The petitioner has delivered to King County an easement for ingress, egress and utilities which assures future access and right of way for utility service to all lots which might be affected by this vacation. This easement has satisfied the King County Department of Development and Environmental Services and Department of Transportation that adequate provision is made for future neighborhood access.
5. Vacation of the subject right-of-way would have no adverse effect on the provision of fire and emergency services to the subject property or surrounding area.

CONCLUSIONS:

1. The road subject to this petition is presently useless, as part of the King County road system, and the public will be benefited by its vacation.
2. The Notice of Hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the Metropolitan King County Council.
3. The compensation required by law to be paid as a condition precedent to the vacation of this road has been deposited with King County, and the easements necessary for ingress and egress, and the construction, repair and maintenance of public utilities and services have been provided in form satisfactory to the affected public utilities.

RECOMMENDATION:

APPROVE proposed substitute Ordinance No. 96-919, September 15, 1997 draft, to vacate a portion of the subject road as described therein.

RECOMMENDED this 25th day of November, 1997.

James N. O'Connor
King County Hearing Examiner

TRANSMITTED this 25th day of November, 1997, to the following parties and interested persons:

Kenyon Luce
Lakehaven Utility District
WA Natural Gas

Gregory Mizukami
Puget Power/Real Estate
METRO Transit

Michael Robinson
US West
John Ribley

Tommy Burdette, KCDOT/Road Services Division
Sharon Claussen, KC Parks & Cultural Resources
Tom Eksten, KC DNR/Open Space Section
Dennis Gorley, KCDOT/Road Services Division
Bill Hoffman, KCDOT/Transportation Planning
Rod Matsuno, KCDOT/Road Services Division
Marilyn Cox, DDES/LUSD, SEPA Section

Ken Grubbs, DDES/LUSD, Site Development
Gary Samek, KCDOT/Road Services Division
Charlie Sundberg, KC Historical Preservation
Harold Taniguchi, KCDOT/Road Services Division
Dave Preugschat, KC Property Services Division
Paul Toliver, Director, KCDOT
Lanny Hennoch, DDES/LUSD, Site Plan Review

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the Metropolitan King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before December 9, 1997. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the Metropolitan King County Council on or before December 16, 1997. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless within twenty (20) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE JANUARY 8, AND OCTOBER 29, 1997, PUBLIC HEARING ON KING COUNTY DEPARTMENT OF TRANSPORTATION FILE NO. V-2172 - KENYON LUCE PETITION FOR ROAD VACATION.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing on January 8, 1997, were Dennis Gorley, Kenyon Luce, and Lanny Henoch. Participating in the hearing on October 29, 1997, were Dennis Gorley and Kenyon Luce.

On January 8, 1997, the following exhibits were offered and entered into the record:

- Exhibit No. 1 King County Department of Transportation report to the Hearing Examiner, dated December 2, 1996
- Exhibit No. 2 Petition transmittal letter, dated April 12, 1994, from Clerk of the Council, to Department of Transportation
- Exhibit No. 3 Petition for Vacation of a County Road, including legal descriptions of petitioners properties
- Exhibit No. 4 Copy of road vacation petition filing fee check: Check #34355, from Kenyon E. Luce, dated April 6, 1994, in the amount of \$100.00
- Exhibit No. 5 Vicinity map
- Exhibit No. 6 Map depicting road vacation
- Exhibit No. 7 Letter, dated July 23, 1996, from KC Dept. of Transportation, to Mr. Kenyon Luce, re: Notice of Denial and appeal instructions
- Exhibit No. 8 Memorandum, dated August 23, 1996, from Clerk of the Council, to KC Dept. of Transportation, re: Appeal on Vacation Denial V-2172
- Exhibit No. 9 Letter, dated August 21, 1996, from Kenyon Luce, to Clerk of the Council, re: Appeal of Notice of Denial
- Exhibit No. 10 Copy of appeal filing fee check: Check #40655, from Kenyon E. Luce, dated August 21, 1996, in the amount of \$200.00
- Exhibit No. 11 Letter, dated October 24, 1996, from King County Executive, to King County Council Chair, re: denial and appeal of V-2172
- Exhibit No. 12 Proposed Ordinance No. 96-919
- Exhibit No. 13 KC Dept. of Transportation Notice of Hearing re: V-2172, dated November 6, 1996
- Exhibit No. 14 Affidavit of Posting, re: V-2172, dated posted November 5, 1996
- Exhibit No. 15 Unrecorded Conditional Easement Agreement, re: conditions of proposed road vacation file No. V-2172
- Exhibit No. 16 KC Dept. of Transportation Notice of Hearing re: V-2172, dated December 10, 1996
- Exhibit No. 17 Affidavit of Posting, re: V-2172, dated posted December 10, 1996

On October 29, 1997, the following exhibits were offered and entered into the record:

- Exhibit No. 18 Revised King County Department of Transportation report to the Hearing Examiner, dated received September 19, 1997
- Exhibit No. 19 Road vacation worksheet V-2172, dated January 9, 1997
- Exhibit No. 20 Letter, dated February 18, 1997, from Road Services Division, to Clerk of the Council
- Exhibit No. 21 Letter, dated April 3, 1997, from Road Services Division, to Kenyon Luce
- Exhibit No. 22 Letter, dated April 18, 1997, from Road Services Division, to Kenyon Luce
- Exhibit No. 23 Letter, dated April 18, 1997, from Road Services Division, to Gregory Mizukami
- Exhibit No. 24 Letter, dated July 3, 1997, from Kenyon Luce, to KC Road Services Division
- Exhibit No. 25 Copy of cashiers check in the amount of \$28,494, to King County, re: Kenyon Luce

Exhibit No. 26	Copy of substitute proposed ordinance no. 96-919, dated September 15, 1997
Exhibit No. 27	Notice of Reopened Hearing, from King County Hearing Examiner, to parties and interested persons, re: V-2172/Luce road vacation
Exhibit No. 28	Affidavit of posting on October 1, 1997, signed by Dennis Gorley, subscribed and sworn October 1, 1997
Exhibit No. 29	Affidavit of publication

JNOC:vam/cp
Attachments

vacations\V-21\V-2197 Luce report